

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SAMUEL PRIOLEAU,

Plaintiff,

-against-

P.O. GREGORY CASERTA, P.O. ADRIAN ARZAGA,
P.O. JOHN GIOVANIello,

Defendants.
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ORDER

10-CV-5670 (SJF)(ETB)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ OCT 29 2012 ★

LONG ISLAND OFFICE

FEUERSTEIN, J.

On December 7, 2010, pro se plaintiff Samuel Prioleau ("plaintiff") commenced this action pursuant to 28 U.S.C. § 1983 against the defendant police officers ("defendants"), alleging that defendants violated his civil rights while placing him under arrest on June 21, 2010. [Docket Entry No. 1].

Presently before the Court is the Report and Recommendation (the "Report") of Magistrate Judge E. Thomas Boyle, dated September 12, 2012, recommending that defendants' motion for summary judgment be granted in part and denied in part. [Docket Entry No. 48]. No objections to the Report have been filed. For the following reasons, the Court adopts Magistrate Judge Boyle's Report in its entirety.

I. Standard of Review

Any portion of a report and recommendation on dispositive matters to which a timely objection has been made is reviewed by the district court de novo. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). However, the district court is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See

Thomas v. Arn, 474 U.S. 140, 150 (1985). To accept the report and recommendation of a magistrate judge on a dispositive matter as to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See Fed. R. Civ. P. 72(b); Johnson v. Goord, 487 F. Supp.2d 377, 379 (S.D.N.Y. 2007), aff'd, 305 F. App'x. 815 (2d Cir. 2009); Baptichon v. Nevada State Bank, 304 F. Supp.2d 451, 453 (E.D.N.Y. 2004), aff'd, 125 F. App'x. 374 (2d Cir. 2005). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

II. Analysis

No objections to Magistrate Judge Boyle's Report have been filed. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts Magistrate Judge Boyle's Report in its entirety. Defendants' motion for summary judgment is granted with respect to plaintiff's false arrest and malicious prosecution claims and denied with respect to plaintiff's excessive force claim.

In accordance with Rule 77(d) of the Federal Rules of Civil Procedure, the Clerk of Court shall serve a copy of this order upon all parties, including by mailing a copy of this order to the pro se plaintiff, and record such service on the docket.

SO ORDERED.

s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: October 29, 2012
Central Islip, New York